

Downtown Commission Meeting
Minutes of March 12, 2010
8:30 a.m.
1st Floor North Conference Room - City Hall

Present: Interim Chairman/Vice-Chairman Dwight Butner Presiding; Mr. John D. Rogers, Ms. Kitty Love, Mr. Byron Greiner, Ms. Pamela Myers, Mr. Michael McDonough, Mr. Matthew Sprouse and Mr. Bruce Hazzard

Absent: Councilman Jan Davis and Mr. Guadalupe Chavarria

Interim Chairman Butner called the meeting to order at 8:30 p.m. and said that he would act as Interim Chairman until the nominating committee convenes. He then informed the audience of the public hearing process.

Administrative

- ? Interim Chairman Butner welcomed the new members Bruce Hazzard and Matt Sprouse and expressed appreciation to outgoing members Jesse Plaster and Peter Alberice.
- ? Mr. Rogers moved to approve the minutes of the February 12, 2010, meeting. This motion was seconded by Mr. Greiner and carried unanimously on a 8-0 vote.
- ? Ms. Love moved to amend the agenda to consider the downtown design review of the County Courthouse first. This motion was seconded by Mr. Rogers and carried unanimously on a 8-0 vote.

Downtown Design Review

Buncombe County Courthouse Life Safety Addition

Assistant County Manager Jon Creighton said that the Courthouse needs major remodeling, noting that they do not have one single means of egress out of the building that meets the Code. The 1928 building will have a life safety tower with fire escapes and elevators and bring it up to Code standards. Long term, in their next phase, is to construct a building on College Street (just courtrooms) and tie those together for one secure entrance. The projected timeline for Phase 2 is four years.

Mr. Keith Hargrove reviewed with the Commission the description and complexity of the work. He reviewed in detail the renderings and massing models of the site noting they will get increase security at the entrance point, 5 new public elevators and additional restrooms. He said that they will ask for a closure of Davidson Street; however, there will be fire emergency access to the jail building. In addition, he showed photographs of the different views of the building, along with some sample materials that will be used.

In response to Mr. Greiner, Mr. Hargrove said that it will take approximately 18-months to 2-year project done after-hours. There will be a mechanical room in the basement of the Life Safety Addition to house the heating/air units. He did note, however, that there is heating/air unit on the southeast corner and if that is relocated on the roof, they will screen as necessary.

Mr. Hargrove responded to various questions/comments from the Commission, some being, but are not limited to: was the decision not to use the same brick as the Courthouse on the Life Safety Addition a financial or an aesthetic decision; confirmation that the Life Safety Addition is not visible from Pack Square; will the number of handicapped parking spaces need to be increased at the primary entrance; due to the economy, this should be looked on as a

complete project without a Phase 2; has a determination been made of the tree type off the new entrance plaza along College Street (upright character vs. spreading character); and explanation of the new entrance and plant materials being temporary until Phase 2.

Urban Planner Jessica Bernstein said that the applicant (Buncombe County), is requesting design review of plans to construct a life safety tower and consolidated entry point on the rear side of the Buncombe County Courthouse, located at 60 Court Plaza, at the corner of Davidson and College Streets in the Central Business District.

Currently all entry into the County Courthouse is through a small door and narrow hallway off of College Street. With this proposal, the main point of entry remains along College Street but will be enlarged to provide an entry vestibule (offering refuge during inclement weather), upgraded areas for security guards and a separate security office, entry points with two metal detectors and an handicapped accessible gate and an adjacent exit area. This consolidated ground level entry/exit lobby enhances security options for the Courthouse in a way to make for more efficient check-in and allows guards to monitor all coming and going from the building.

The tower structure is 9-stories including the lobby/base and provides upgraded access to the upper stories of the Courthouse via four elevators and two separate stairways and includes two accessible bathrooms on each level through the 8th floor. The addition comprises 37,712 square feet overall with a 5,646 square foot footprint.

The existing plaza along the College Street façade will be significantly enhanced and enlarged with benches, increased landscaping, pedestrian pathways, brick pavers and monumental steps leading up to the entry lobby. These improvements will aid in providing clear visual direction to pedestrians as to where to access the Courthouse as well as offering public gathering spaces.

This project will require the permanent closure of Davidson Street to the public. The street would become private and accessible only to police and associated personnel via a security gate at the southern intersection with Marjorie Street and a smaller, diverted “exit-only” at College Street. While the life safety addition will need expand into the existing Davidson roadway width, the resulting private street will remain wide enough for emergency fire access to the jail building. This action requires a separate review process, approved by City Council.

The Buncombe County Courthouse (1927-1928) is listed on the National Register of Historic Places. The proposal follows the guidelines set forth by the Secretary of the Interior's Standards for new exterior additions to historic buildings (Chapter 14).

This proposal includes the demolition of the Courthouse Annex building (Lewis Funeral Home), located at 189 College Street. This two-story brick building was built c. 1922 and was designed by Smith and Carrier with a red, shingle-tiled hipped roof and distinctive molded concrete trim. It is approximately 14,250 square feet in size. The applicant intends to use this area as the staging and lay-down site for materials during construction and proposes for a future phase to include a structure in this location along College Street.

The applicant is seeking the following modification to flex a Unified Development Ordinance (UDO) standard in 7-8-18(f)(5):

Setback – A setback of up to 50 feet from the edge of the curb may be approved for places of civic use that provide a public space, such as a courtyard or plaza space (but the Commission may grant a greater setback as part of the design review process). In order to align the new addition with the façade of the historic Courthouse structure, the setback measures from approximately 65 to 75' heading east, as the existing line of College Street pulls away from the building.

Staff feels this greater setback is warranted to keep the building faces aligned and also feels that the increased setback is supported by the enlarged plaza that creates a clear visual path to the building entry and enhances the civic location.

Due to both the civic use and prominent location, the life safety tower addition to the Buncombe County Courthouse can be considered as a "landmark" project. The main principle of review for landmark projects is that *"while basic compatibility with context remains important, the DTC may approve projects that do not meet the guidelines when a condition or conditions such as the following are met: landmark building, public or institutional use, special creative design..."* That being said, the proposed design does not deviate greatly from the guidelines.

The addition provides a base-middle-cap orientation with the base clearly differentiated from the upper stories through materials and design, most notably amount of glass and fenestration on the base. The cap is articulated with a traditional cornice of stone coping, with a similar classical look as the Courthouse building. Traditional materials are included, such as glass, stone and brick and the placement of the tower is on the least prominent side of the Courthouse. The proposal is compatible with its context and generally traditional in design while exhibiting contemporary elements such as the expansive glass base and wrap-around corner windows.

The tower meets major design review goals by achieving high quality of design for new construction at prominent locations, promoting building forms that respect and improve the integrity of public spaces and scenic vistas and by developing an environment that improves pedestrian activity and human scale at the street level.

Staff supports the modification increasing setback based on maintaining and referencing the existing face of the Courthouse building and the resulting enhanced pedestrian plaza.

Although there are no legal grounds on which to prohibit the demolition of the structure at 189 College Street and it is not a local landmark or individually listed National Register property, staff recognizes the local historic significance of this building as representing the early commercial fabric of the downtown, and would prefer to see an alternative construction staging location on an already-vacant lot. If another location is not possible, staff would prefer the demolition to be delayed until absolutely necessary.

In response to Ms. Myers, Mr. Hargrove explained the staging area, location of crane and construction fence. The modified Davidson Street would have a gate on College Street with the access onto Valley Street for deliveries. Ms. Myers felt that the staging area would have been better to be on the lower side of Davidson Street in order to avoid another disruption on College Street and less visible to the community.

Mr. Hazzard explained why it would have been beneficial to provide a plan graphic that shows the existing conditions and then an overlay of the new improvements specifically as it relates to the road alignment, the entry plaza and 189 College Street. He felt more discussion would be beneficial on what the lay-down area would be used for to warrant removal of 189 College Street (which might be usable).

In response to Mr. Hazzard, Mr. Hargrove said that 189 College Street is currently being occupied by the Buncombe County Board of Elections and they will be relocated to other County facilities. Regarding the staging area (189 College Street), he felt that the construction of Phase 2 would begin shortly thereafter, but if not, the County would grass the area and it would not be a gravel parking lot.

In response to Interim Chairman Butner, Mr. Hargrove said that demolition of 189 College Street will facilitate a more efficient construction process and give us more space to have lay-down for construction.

In response to Interim Chairman Butner, Mr. Creighton said that it is very likely that Phase 2 will be constructed, which is mainly for the criminal courts division. He noted that it is also in the County's Capital Improvement Plan for 2014.

When Interim Chairman Butner asked for public comment, no one spoke.

When Mr. Hazzard questioned how the Commissioners can review a project that may change in 4 years, it was noted that Phase 2 will come before the Commission at that time for review.

Mr. McDonough didn't feel like the entrance lobby is a civic monument, even though it is respectful to the existing building. He hoped the entrance lobby piece would be a grander, confident and more powerful piece.

Mr. Sprouse was pleased to see the plaza element and the Life Safety Addition stepped back since there is a need in that area for outdoor civic space.

Mr. Hargrove said that the entrance lobby could be modified or altered very easily if it becomes an issue in the future.

Mr. Rogers moved to approve the design review request and the setback modification as listed above for the Buncombe County Courthouse Life Safety Addition, subject to the site plans and elevations provided during this review. This motion was seconded by Mr. Greiner.

Mr. Hazzard moved to amend the motion to include a condition that 189 College Street remain with the use to be determined by the County during construction until such time as Phase 2 proceeds. This motion was seconded by Mr. Greiner.

Mr. Hazzard would like to see more of a plan regarding the demolition of 189 College Street.

Mr. Rogers said that that Mr. Creighton said that the building does not have to be demolished for the actual new piece to be there. They are asking that it be removed so construction would be more efficient and hopefully less expensive.

Interim Chairman Butner felt it was appropriate to yield to the people who are doing the project and the people who are having to spend the money – the taxpayers of Buncombe County. Therefore, he would speak against the amendment. If, in their judgment, they believe it will facilitate and expedite the addition and save taxpayer money by removing the annex building, we should do it. He was satisfied that Phase 2 will happen.

Mr. Hazzard explained his amendment to the motion. He felt the design team and the County were vague about whether it made economic sense to demolish 189 College Street or not. With that in mind, he chose the more conservative manner that if it doesn't make sense or save time, efficiency or money, it would cost less to leave it.

City Attorney Oast understood that the demolition of the Courthouse Annex (189 College Street) is part of the project they are asking the Commission to approve. He heard the County say that they would not demolish the Courthouse Annex unless they had to and he didn't think we know now whether they will have to or not.

Mr. Rogers' experience is that you cannot swing a crane over an occupied building and as he sees this site, you can't make the crane operate unless you demolish the Courthouse Annex.

Mr. Creighton said that the County will be considering hiring a Construction Manager at Risk for this project. Once he is on board, they will get a better grip on things and what is realistic. His personal concern is that they have to build the addition at night and they will be very tight where to do the lay-down even with the Courthouse Annex being gone. Their objective is not to take the Courthouse Annex down any earlier than they have to, whether now or 4 years from now. But on the other hand, they must be realistic about the cost.

Ms. Bernstein reminded the Commission that they didn't have the ability to stop a demolition. The Commission can say they don't agree with the demolition, but it could still go forward. The Commission can, however, add a condition on the design review piece and the demolition piece stating that they acknowledge the demolition is a part of the project and they hope that it doesn't happen until the last possible moment. This will also go before City Council for their review.

City Attorney Oast felt it is appropriate to approve the new construction and state in that motion they hope to keep the Courthouse Annex as long as possible but they understand if it has to be demolished.

The amendment to the motion made by Mr. Hazzard and seconded by Mr. Greiner carried on a 6-2 vote, with Interim Chairman Butner and Mr. McDonough voting "no."

The amended main motion carried unanimously on an 8-0 vote.

Update on the Downtown Master Plan Implementation

Ms. Sasha Vrtunski, Project Manager, said that in general the full Action Committee meeting is on April 1 and she is waiting on a room confirmation. Historic preservation is doing well and meeting monthly.

Ms. Love said the Arts Subcommittee had some protocol issues in terms of how to communicate with Council and felt she needed the full Commission to look closely at the experience that Arts & Culture may be having in being able to steward the Master Plan forward. Basically, they became aware of a National Endowment for the Arts Mayor's Initiative 25th Anniversary grant. The Subcommittee felt there was a lot of opportunity for an excellent application. In the process the HUB Alliance had a proposal for this grant as well and we were excited by that because some of the things we wanted to do aligned with what the HUB wanted to do. They were hopeful to go to Council and ask for them to approve the HUB proposal with the caveat that they look at the Downtown Master Plan recommendations for Arts & Culture and work with us. That is not what happened. The City's staff report was not in alignment with the original idea – it showed three proposals, the HUB proposal, the Downtown Master Plan proposal and the Public Art proposal. The protocol question was how long they had to present, which ultimately they presented for 4 minutes. It seemed that Council thought the Downtown Master Plan proposal was a separate group. We are trying to communicate to Council on how to move the Master Plan forward through action steps. Council was confused and delayed their consideration until March 9. In the meantime, HUB withdrew their proposal. The presenters of the Downtown Master Plan proposal worked on a 10-minute proposal to give Council on March 9 since their proposal was pretty complicated and incorporated several strategies. They were not allowed to present. Council ultimately chose the Public Art proposal. At this time she is not sure how to steward the recommendations forward. She felt there needs to be some clear direction.

Ms. Love said that as our subcommittees come up with action steps and/or opportunities to give Council direction on how to implement the Master Plan, how can any one of the subcommittees be assured that they get staff support necessary and process in place that Council can consider the recommendations in a reasonable fashion and give direction on whether they approve or disapprove. The concern is if we don't have a process in place. There is no way

to move the action recommendations to action. With the Unified Development Ordinance (UDO) changes, there is a process. With other things in the Master Plan, there is no process.

Ms. Love also said there also is not a clear relationship with staff about how things are recommended. In the March 9 staff report submitted to Council, it contained a line that the proposal from the Downtown Master Plan Arts & Culture Subcommittee would require the City to hire an additional staff person at a cost of \$25,000. That language did not come from the Subcommittee. Her understanding is that City Manager Jackson asked that language be included. She questioned if there was a way to create a protocol for our relationship with staff that will be clear.

Ms. Vrtunski felt there is the protocol issue and also a general education of Council issue, which we have faced with the UDO changes already. When staff brought Council a small piece, Council was completely overwhelmed. Staff realized they needed a whole strategy of how to educate Council members ahead of time. She will discuss that at the next Arts Subcommittee meeting.

Ms. Love also noted that at the Council meeting Mayor Bellamy suggested that the opera be represented on this Subcommittee. It showed her that she didn't understand the process outlined, as they had a very lengthy process of choosing the Arts & Culture Subcommittee. Ultimately the first strategy step will be the alliance of arts organizations, tourism development and economic development organizations all across the board to move these steps forward. She was concerned that there were new members of Council that did or didn't participate in the creation of the Master Plan and were not familiar with the process. Ms. Vrtunski responded that someone approached Mayor Bellamy and said that they were turned down to be on that Subcommittee.

Ms. Love asked for the Commission's support to be proactive.

Interim Chairman Butner said that there will be a couple of disconnect phases. One is the detail that is involved in the UDO modifications and that is a staff driven initiative. The public art piece and the management piece are being driven fundamentally by the private sector. He felt the best way to move forward is when we go to Council in May with a report and we need to draw a distinction between those two kinds of processes. He felt we bumped up against staff that was surprised and we have to find a way to communicate better.

Ms. Love said that a lot of the recommendations are private sector driven, but at the same time they are the desires of the community that we have a public obligation to steward forward. We need to improve the City's relationship to community-based arts initiatives.

Ms. Love felt we need a process that as subcommittees come to a firm recommendation on whole or part of their segment that it comes to the Commission for discussion and a vote. Then that will provide guidance to staff and the subcommittee on how to move forward with Council.

Mr. Rogers agreed and felt that a Downtown Commission member needs to do the presenting.

Ms. Love said that the subcommittees need to know the process on how to move their work forward to Council.

It was the consensus of the Committee that all strategies in the Downtown Master Plan be reviewed by the Committee prior to being presented to Council.

Committee Updates

Regarding the Transportation and Parking Subcommittee, Interim Chairman Butner said that two meetings were scheduled, however, due to weather conditions they did not meet.

Regarding the Downtown Management Subcommittee, Interim Chairman Butner explained why they decided to significantly expand the base of the Subcommittee.

Regarding the Urban Design Subcommittee, Urban Planner Alan Glines briefly updated the Commission on why there may not be complete consensus on design recommendations. Interim Chairman Butner said that if possible he would like to be able to give the Council something firm when they do their report to Council in May.

Regarding the Arts Subcommittee, Ms. Love said they will request that there be an alliance formed among presenters. She briefly reviewed the HUB proposal, which is basically cultural asset map, and noted that they are willing to work with us.

Pack Square Park Permitting and Uses

Superintendent of Cultural Arts Diane Ruggiero said that up until last week the Cultural Arts Division was responsible for park reservations and outdoor special event permitting. As of March 8 that permitting function has moved to the Development Services Center. The City has consolidated all of the permitting into one area.

Ms. Ruggiero then gave a brief overview of the permitting process. She said that Pack Square Park is (as are all our parks) a public space. The separate those three areas was a request by City Council. We have a process if people want to reserve the park, whether private or open to the public.

We have divided the Park into two areas. Right now Roger McGuire Green and Reuter Terrace are reserved as one entire unit. The price is \$500 for the first three hours of the event, including set-up, plus \$100 for each additional hour.

The area between Market and Biltmore we refer to as Pack Square. That area is divided into three separate reservation areas. The raised lawn is considered a park and has a park usage fee (\$100 for the first three hours and \$25 for each additional hour). Many people have opted to close the street. You sign up for a street closing permit (\$50), barricades (\$25/barricade). You have to close the street to be able to use the island in the middle due to a safety issue.

The other area is in front of Pack Place and the Museum and in order for people to reserve that for an event, they have to get a sidewalk closure permit. To get a permit, you fill out an application (\$25) at the Development Services Center. To have tents, there is an additional permit.

The cost and space depends on the kind of event you are looking for. Everything is available on-line (except the alcohol permit) along with a guide. To reserve Pack Square Park is the same process used to reserve any of our parks throughout the City. The fees are higher due to the extra amenities, like stage.

Ms. Myers said that she received an e-mail that said Patton Avenue through Pack Square was going to be closed basically every weekend in October through a simple street closure permit to which all of the business owners on Patton Avenue were unaware. The applicant for the street closure permit has no business or property owner on the square or on those streets. She felt this will run the businesses out of business.

Ms. Ruggiero noted that the same event organizer has applied to do the same thing in June. It's unfortunate that we don't have a process to decline a permit if you have met all the criteria. When an application comes in it is distributed to 16 different divisions in the City who all have a role in reviewing the permit.

Ms. Myers' point is given that the Park is close to completion and will be very popular that there needs to be some way for property and business owners on any street in the City to weigh in as stakeholders when their business will be disrupted.

Ms. Ruggiero said that currently the event organizer is required to do a notification to any businesses or residents that will be impacted and they are supposed to do the notification when they turn in their application.

Ms. Myers asked the Commission to assist in working out a system that lets Pack Square Park be fully utilized to the maximum potential at the same time not disrupt downtown business.

Urban Planner Alan Glines suggested a subcommittee of Mr. Greiner, Interim Chairman Butner and Ms. Myers, along with staff, work to identify problems and work on solutions.

Mr. Greiner moved to form a subcommittee to evaluate the permitting policy and to discuss opportunities to have input on policy issues – noting that the subcommittee's first meeting they would determine their mission. This motion was seconded by Ms. Love and carried unanimously on a 7-0 vote (Mr. Rogers was absent). When Interim Chairman Butner asked if Ms. Ruggiero would be available to meet with the subcommittee, she said that she could, but recommended inviting Director of Parks, Recreation and Cultural Arts Roderick Simmons, Director of Building Safety Robert Griffin and Susannah Carver be a part of the subcommittee as they are overseeing the permitting function now. Mr. Greiner felt Mr. Gary Giniat, Executive Director of Pack Square Conservancy, should be involved in the subcommittee as well.

In response to Ms. Myers, Interim Chairman Butner said they could draft a letter to Director of Building Safety Robert Griffin noting concerns about permitting street closures, especially about the repetitive permits.

Pack Square Update

Ms. Pam Myers updated the Commission on Pack Square renovation.

Downtown Task Force

Urban Planner Alan Glines reviewed the main actions discussed on February 22, 2010, noting the wayfinding signs are being installed. In response to Mr. Greiner, Mr. Glines said that he would get an update on the piece that is used to conceal the base bolts.

Miscellaneous

Urban Planner Alan Glines said that they would reschedule the downtown mobile food sales discussion.

Adjournment

At 10:56 a.m., Mr. Greiner moved to adjourn the meeting. This motion was seconded by Mr. Sprouse and carried unanimously on a 7-0 vote (Mr. Rogers was absent).